

Entered - 05/11/00 - sb  
CL00L0281 - DIANNE C. MITCHELL

CLAIM OF: **COPYZXPRESSED, INC.,**  
through its attorney,  
**T. Bart Gary**  
**100 Galleria Parkway**  
**Suite 1600**  
**Atlanta, Georgia 30339-5948**

01-*R*-0279

For damages alleged to have been sustained as a result of a sewer  
back up on April 2, 2000 at 271 Spring Street.

THIS ADVERSED REPORT IS APPROVED

BY: *Rosalind Rubens Newell* by *Robert C. G. D.A.*  
**ROSALIND RUBENS NEWELL**  
**DEPUTY CITY ATTORNEY**

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

**Claim No. 00L0281**

Date: February 5, 2001

Claimant /Victim COPYZXPRESSED, INC.

BY: (Atty) T. Bart Gary

Address: 100 Galleria Parkway, Suite 1600, Atlanta, Georgia 30339-5948

Subrogation: \_\_\_\_\_ Claim for Property damage \$ not stated Bodily Injury \$ \_\_\_\_\_

Date of Notice: 05/04/00 Method: Written, proper X Improper           

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.)

Date of Occurrence 04/02/00 Place: 271 Spring Street

Department Public Works Division: Sewer Operations

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

**NATURE OF CLAIM:** The claimant alleges that its property was damaged due to the overflow of storm water caused by an uncapped pipe that was installed through the wall of its building. The investigation determined that the City Sewer Operations' crew did not install the pipe, but that the pipe may have been installed by a private contractor working on the building.

### INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other \_\_\_\_\_

Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

**BASIS OF RECOMMENDATION:**

**Function:** Governmental X Ministerial \_\_\_\_\_

Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other X Damages reasonable \_\_\_\_\_

City not involved	X	Offer rejected	Compromise settlement
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Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_

Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted

INVESTIGATOR - DIANNE C. MITCHELL

**RECOMMENDATION:**

Pay \$            Adverse X Account charged: 1A01        2J01        2H01       

Claims Manager: Mark Smith Concur/date 02-05-01

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

# FREEMAN MATHIS & GARY

A LIMITED LIABILITY PARTNERSHIP

*Jordan*  
*05/05/00*  
*[Signature]*

Attorneys at Law

100 Galleria Parkway  
Suite 1600  
Atlanta, Georgia 30339-5948

ENTERED - 5-11-00 - SB  
00L0281 - DOBBS JORDAN

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T. BART GARY

MAY 0 4 2000

Writer's Direct Access  
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May 2, 2000

**CERTIFIED MAIL -  
RETURN RECEIPT REQUESTED**

The Honorable William Campbell  
Mayor  
City of Atlanta  
City Hall, Suite 2400  
55 Trinity Avenue  
Atlanta, Georgia 30335

**Re: Ante Litem Notice Pursuant to O.C.G.A. 36-33-5(b) Related to Water Damage  
at 271 Spring Street, Atlanta, Georgia 30303**

Dear Mayor Campbell:

The undersigned law firm represents CopyZXpressed, Inc. This letter is official notice to the City of Atlanta that CopyZXpressed has a claim against the City of Atlanta for all losses and damages sustained as a result of water damage in the production facility in the basement of the old Firestone Building at 271 Spring Street, Atlanta, Fulton County, Georgia on April 2, 2000. The essential facts giving rise to this loss are as follows.

The basement space of 271 Spring Street was an unfinished and unoccupied space for many years. In February 2000, the basement space of 271 Spring Street was renovated and outfitted to provide a photocopy production facility for CopyZXpressed. In conjunction with this build-out, additional bathroom and kitchen facilities were added to the basement. Those facilities were tied into existing sewer and water service lines in the building.

Shortly after moving into the new space, in early March 2000, the employees of CopyZXpressed experienced a backup of raw sewage coming from the toilets and sinks in the basement space. Plumbing contractors and other workmen were called to investigate this complaint, and it was discovered then that the plumbing lines from the building were not tied into the sewer line, but discharging directly into the earth under or adjacent to Spring Street. Whereas previously the limited volume of waste water had been absorbed by the surrounding ground, the surrounding ground clearly could not absorb the volume of waste water produced CopyZXpressed.

Hon. William Campbell  
May 2, 2000  
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Employees of the City were called to 271 Spring Street to investigate the sewer problem on or before Friday, March 31, 2000. Those employees excavated the ground outside of 271 Spring Street at the location where the unconnected pipe was discharging sewage from the building. We now understand that the city workers discovered that there was another pipe, approximately 5 inches in diameter, that penetrated the basement wall along Spring Street approximately 12' to 15' beneath street level and terminated. Prior to the City's excavation, this pipe was cast iron and was capped on the interior. We believe that the city employees removed the cap and may have replaced the pipe with a PVC pipe.

The situation was unresolved at the end of the workday on Friday, March 31, 2000. The city employees placed steel plates over the hole. The PVC pipe that penetrated the basement wall office was left uncapped.

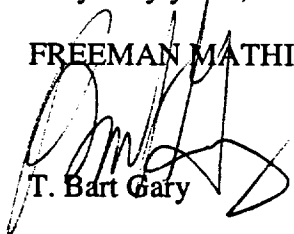
On the evening and morning of April 1/April 2, 2000, a heavy rainstorm filled the excavated pit, and forced water, mud, gravel and sewage from the pit through the open PVC pipe into the facility of CopyZXpressed.

CopyZXpressed, Inc. has sustained thousands of dollars of damages as the result of this inundation of water. These damages include the loss of the use of the facility for the production work of CopyZXpressed, damage to floor tile, base molding and carpeting, damage to walls, damage to computer equipment, photocopy machines, inventory, supplies and HVAC equipment in the basement office suite.

Please be advised that this office continues to investigate the facts and circumstances surrounding this flood, and the damages suffered by CopyZXpressed. We ask that a member of the city government contact this office and advise us what actions the City intends to take to remedy this situation and compensate CopyZXpressed for the damages it has suffered. We are ready to provide the City with whatever information it requests regarding the facts and circumstances surrounding this claim. We look forward to hearing from a member of your staff shortly.

Very truly yours,

FREEMAN MATHIS & GARY, LLP

  
T. Bart Gary

cc: Susan P. Langford, City Attorney (via certified mail, return receipt requested)  
Mr. Forrest Brown  
Jefferson M. Allen, Esq.

HGA1012/6024.39147

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